

Response/Amendment to Official Action of 29 June 06 SN: 799,459 Filed: 12 March 2004
Inventor: Anthony J. Hadala Confirmation: 7698 Examiner: Frank, Rodney T. TC A/U: 2856
Title: A Temperature-Sensing Device for Determining the Level of a Fluid Docket: 1286

REMARKS

Any arguments made herein are only to be considered as to the claims to which the argument is directed. No estoppel is intended or should be taken to any other claims to which the arguments herein are not specifically directed.

A declaration by counsel that the present application and the cited Hadala United States Patent 6,925,872 (hereinafter the Hadala '972 patent) have a single sole common inventor and that at all times material the present application and the Hadala '972 patent are commonly assigned is included.

ARGUMENTS

Discussion of the 35 U.S.C. 103 Rejections

The Examiner has rejected claims 1 through 4 inclusive, 6 through 12 inclusive, and 15 through 17 inclusive as being obvious based on the Hadala '972 patent further in view of United States Patent 4,362,645 to Hof, et al., (hereinafter the Hof, et al., '645 patent). Claim 13 stands rejected as being obvious based on the Hadala '972 in view of the Hof, et al., '645 patent, and further in view of United States Patent 6,260,414 to Brown et al. (hereinafter the Brown, et al., patent).

The foregoing 35 U.S.C. 103 rejections are all based upon 35 U.S.C. 102 (e). The Examiner has stated that removal of the basis for the application of 35 U.S.C. 102 (e) is a basis for removal of all of the rejections. The applicant maintains first that 35 U.S.C. 102 (e) has no basis as the Hadala '972 patent and the pending application. The Hadala '972 patent and the pending application has a sole inventor, namely Anthony J. Hadala. The statute 35 U.S.C. 102 (e) only applies to an invention of *another* (emphasis added). Where there is a sole inventor there can never be *another* and thus the rejection under 35 U.S.C. 102 (e) is improper and should be removed.

In any event should the Examiner be concerned with the common ownership aspect a declaration under 37 C. F. R. 132 concerning the Hadala '972 patent and the pending application is included. Also included is a terminal disclaimer made under 37 C. F. R. 1.321 (c).

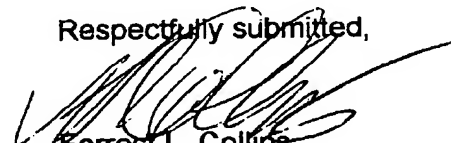
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As none of the references cited in the present Official Action serves as the basis for the foregoing rejection due to the removal of the Hadala '972 patent no further discussion is made of such references.

Summary

Claims 1 through 4 inclusive, 6 through 12 inclusive, and 15 through 17 inclusive are pending and reconsideration, and removal, of the rejections made in the present Official Action is requested. Should questions concerning this application arise the Examiner is urged to telephone the undersigned to advance prosecution of this application. The applicant believes the application is in condition for allowance and such is earnestly solicited.

Respectfully submitted,


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